

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAH No. 2012010436

IVAN L.,

Claimant,

vs.

INLAND REGIONAL CENTER,

Service Agency.

DECISION

This matter came on regularly for hearing before Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, in San Bernardino California on February 14, 2012.

The Inland Regional Center (agency) was represented by Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Affairs.

Claimant was represented by his mother, who appeared via telephone conference call.

Oral and documentary evidence was received and the matter was submitted on February 14, 2012.

ISSUE

Should the agency pay claimant for respite services rendered by his grandfather during September and October, 2011?

FACTUAL FINDINGS

1. Claimant, a five year old male, qualifies for agency services based on a diagnosis of mental retardation.
2. On April 1, 2011, claimant transferred from the Regional Center of the East Bay (RSEB) to the Inland Regional Center (agency).
3. On May 10, 2011, the consumer service coordinator (CSC) assigned to claimant completed an in-home "30 day Individual Program Plan (IPP)."
4. By letter, dated May 19, 2011, claimant's parents were informed of the following:

". . . [Claimant's] case transferred from Regional Center of the East Bay with Respite-Family Member at 30 hours per month. The family member currently providing the respite services is [claimant's] Mom [name omitted]. The IRC has two types of respite services, Preferred Provider Services (PPS) where the family can choose a respite worker who they are familiar with and must be employed by one of IRC's vendors. The other respite service is Routine Respite, where the respite provider works for a respite agency vendored with IRC.

[Claimant's] case was reviewed by IRC Chief of Children Services, [name omitted] on 5/2/11. The Respite-Family Member service will be in place for 90 days from 4/1/11 to 6/30/11. Due to [claimant's] needs IRC will continue the 30 hours of respite per month . . .

Beginning 7/1/11, Respite-Family Member will need to change to either Routine Respite or Preferred Provider

Services (PPS). You will have the opportunity to choose which respite service best meets [claimant's] and your family's needs." (Exh. 8)

5. Claimant began receiving respite services from Inland Respite, Inc., an agency vendor. By letter, dated February 13, 2012, Inland Respite, Inc. described claimant's respite history as follows:

"Our records indicate [claimant] had two respite workers that would provide 30 hours per month of respite care for him. The names of the respite workers are [LAS] and [JUE]. The last time [LAS] submitted a time card was on July 8, 2011, for 16 hours. The last time [JUE] submitted a time card was on August 7, 2011, for 30 hours. Services were not used after the month of August.

Our records do not show [mother] calling our agency to request a change in respite worker(s). [Mother] is aware of our hiring process if another respite worker was needed. .
..(Exh. 19)

6. Mother testified that her father, claimant's grandfather, provided respite services to claimant during September and October of 2011.

7. Claimant moved out of the agency's catchment area and his mother is now requesting the agency to pay claimant's grandfather for the two months of respite care he provided during September and October, 2011.

8. Mother called the agency in September or November, 2011 and left a voice-message indicating that she wished to have claimant's grandfather provide claimant's respite services. Mother never followed-up on the telephone message; therefore,

claimant's grandfather was never registered with the agency as claimant's respite provider. In order for claimant's grandfather to provide respite in the agency's catchment area he would have been required to be approved in advance and become affiliated with one of the agency's respite vendors. Neither was done.

9. Claimant's grandfather was never registered as claimant's respite provider; therefore, when he provided respite during the months of September and October, 2011, he did so as a family member, i.e., a natural support.

LEGAL CONCLUSIONS

1. Welfare and Institutions Code section 4648, subdivision (a)(2), provides, "In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in the natural community, home, work, and recreational settings."

2. Welfare and Institutions Code section 4648, in conjunction with the fact that claimant's grandfather was never registered with the agency as claimant's respite provider, lead to the conclusion that the agency is not obligated to retroactively pay claimant's grandfather for provision of respite services.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Claimant's appeal is denied. The agency is not required to retroactively pay claimant's grandfather for provision of respite services during September and October, 2011.

DATED: February 20, 2012.

ROY W. HEWITT

Administrative Law Judge

Office of Administrative Hearings

NOTICE:

This is a final administrative decision pursuant to Welfare and Institutions Code section 4712.5(b)(2). Both parties are bound hereby. Either party may appeal this decision to a court of competent jurisdiction within 90 days.